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HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Notification

The 23rd November, 2023

No. 224.—In exercise of the powers vested in them by Section 139 (b) of the Code of Civil Procedure, 1908; Section 297(1)(b) of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974) and Section 3(2)(a) of the Oaths Act, 1969 (Act No. 44 of 1969), Hon'ble the acting Chief Justice and Hon'ble Judges are pleased to appoint :

Sr. No.	Name of the Advocates/ Father's Name/ Place for which applied for	Remarks
1.	Sh. Jarnail Singh s/o Late Sh.Matu Ram, District Courts, Chandigarh	For a period of two years from the date of notification, subject to the curtailment, if any.
2	Sh. Shambhu Dass Chopra s/o Sh. Devi Dass Chopra, District Courts, Chandigarh	For a period of two years from the date of notification, subject to the curtailment, if any.

as Oath Commissioners for administering oaths and affirmations to the deponents of affidavits under the provisions of the aforesaid Acts in accordance with the terms specified in Rule 5, Chapter 12-B of the High Court Rules and Orders, Volume-IV.

BY ORDER OF HON'BLE THE ACTING CHIEF JUSTICE AND HON'BLE JUDGES

(Sd.) . . .,

Assistant Registrar (Rules),
for Registrar General.

Signature Not Verified
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Jalinder Kumar
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OFFICE OF THE DISTRICT MAGISTRATE, U.T., CHANDIGARH

Order under Section 144 Cr.P.C.

The 24th November, 2023

No. DM/MA/2023/28104.—Whereas, it has been made to appear to me that because of possibility of law & order problem, security threats and possibility of misuse of weapons by anti-social elements and others can create panic in the public and public nuisance, and as such there is high apprehension of breach of peace and disturbance of public tranquility besides danger to human lives and safety by the display of weapons.

And whereas I, Vinay Pratap Singh, I.A.S., District Magistrate, Chandigarh, am of the opinion that carrying of all kind of fire arms, lethal weapons, lathies, spears & javelins, trishuls, swords, short swords, knuckles, knives & daggers, iron rods, etc., within the Union Territory, Chandigarh in connection with the aforesaid matters would cause obstruction, annoyance or injury to persons lawfully employed, disturb public peace and tranquility and may cause riots and affrays and that immediate action is necessary for the prevention of the same.

Now therefore, I, Vinay Pratap Singh, I.A.S., District Magistrate, Chandigarh do, hereby, prohibit as measure of emergency, the public generally or any member thereof from carrying of all kind of fire arms, lethal weapons, lathies, spears & javelins, trishuls, swords, short swords, knuckles, knives & daggers, iron rods, etc., within the limits of Union Territory of Chandigarh for a period of 60 days.

Provided that the above order shall not apply to :

1. Police or military or para-military personnel and other Govt. servants if called upon to carry fire arms in connection with their duties subject to the following conditions:
 - a. That the police/military/para-military personnel shall be in their service uniform.
 - b. That the exemption is applicable in relation to the above said personnel only when they are on official duty.
 - c. That the above personnel shall carry their identity cards and authorization cards authorizing them to carry the fire arms in connection with their official duties, issued by the Competent Authority.
2. Carrying of fire arms and lethal weapons for which permission in writing of the District Magistrate, Chandigarh has been obtained or holders of valid arms licence.

This order shall come into force **from zero hours on 22.11.2023** and shall be effective for a period of sixty days **up-to and including 20.01.2024**.

In view of the emergent nature of this order, it is being issued *ex parte* and is addressed to the public in general. Any breach of this order shall invite action under section 188 of the I.P.C.

This order shall be promulgated by affixing copy thereof on the notice board of the office of the undersigned as well as the District Courts, Chandigarh and by publication in local newspapers through the office of the D.P.R., Chandigarh.

Given under my hand and seal on 21.11.2023.

(Sd.),

VINAY PRATAP SINGH, I.A.S.,
District Magistrate,
U.T., Chandigarh.

CHANDIGARH ADMINISTRATION
DEPARTMENT OF SCIENCE & TECHNOLOGY & RENEWABLE ENERGY

Notification

The 24th Nov, 2023

3rd Amendments to the Chandigarh Electric Vehicle (EV) Policy, 2022

No. S&T&RE/2023/1374.—WHEREAS, the earlier notification vide no. S&T&RE/2022/893 dated 20.09.2022, S&T&RE/2023/504 dated 07.07.2023 & S&T&RE/2023/1119 dated 18.10.2023 was issued by the Department of Science and Technology & Renewable Energy, Chandigarh Administration vide which the "Electric Vehicle Policy, 2022" framed to build UT Chandigarh as a 'Model EV City' by achieving one of the highest penetration of zero emission vehicles amongst all Indian cities by the end of the Policy (19th Sep, 2027) period was notified.

AND WHEREAS, a meeting under the Chairmanship of Hon'ble Administrator, U.T., Chandigarh was conducted to review the implementation and effectiveness of the UT Electric Vehicle policy and undertook necessary amendments to achieve the objectives of the policy.

NOW, THEREFORE, the Administrator U.T., Chandigarh has approved the Amendments proposed to the Chandigarh EV Policy-2022 which is annexed herewith as **Annexure-1** and the Amendments will come into force with immediate effect.

These Amendments are available on official website of the department; **solar.chd.gov.in** under **News & Updates Section** as well as on Chandigarh Administration's website; **chandigarh.gov.in**.

Chandigarh :
The 24th Nov 2023.

SH. NITIN KUMAR YADAV, IAS,
Adviser to the Administrator,
Chandigarh Administration.

CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT

Notification

The 25th October 2023

No. 13/2/30-HII(2)-2023/15723.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL) dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 1/2021 dated 03.08.2023 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

PARAS RAM S/O SH. PUDAN SINGH, H. NO.1991, SECTOR 25, CHANDIGARH (Workman)
AND

THE CHANDIGARH COOPERATIVE KITCHEN GARDENING SOCIETY LIMITED,
OPP. BAL BHAVAN, SECTOR 23-A, CHANDIGARH THROUGH ITS GENERAL
SECRETARY (Management)

AWARD

1. Paras Ram, workman has presented industrial dispute under Section 2-A(2) of the Industrial Disputes Act, 1947 (*here-in-after in short called 'ID Act'*).

2. Briefly stated the averments of claim statement are that on 17.09.1995 workman was appointed as Helper by the management. The workman remained in the continuous and interrupted employment up to 11.11.2017 when his services were illegally and wrong fully terminated by refusing of work. The workman was drawing ₹ 7,352/- per month as wages at the time of termination. On 12.11.2017, as usual, the workman went to attend his normal duties but he was refused work without assigning any reason and notice. Since then the workman has been regularly visiting the management but the work was refused to him on one pretext or the other. The refusal of work which amounts to termination is retrenchment under Section 2(oo) of the ID Act. The management has also violated Section 25-F of the ID Act. No charge sheet was issued. No inquiry was held. The workman was not paid retrenchment compensation at the time of termination. Violation of the same makes the termination void. For his reinstatement workman served upon the management a demand notice dated 10.08.2020. The management neither replied the demand notice nor took the workman back on duty. The Assistant Labour Commissioner-cum-Conciliation Officer, U.T. Chandigarh was requested for his intervention. The management refused to take the workman back on duty before the Conciliation Officer, U.T. Chandigarh. The termination is illegal, wrongful, motivated, against the principles of natural justice and unfair labour practice. Prayer is made that the workman may be reinstated with full back wages along with continuity of service, without any change in service condition and all attendant benefits. The workman remained unemployed during the period i.e. from the date of termination to till date.

3. On notice, the management contested the claim statement by filing written statement on 05.08.2021 wherein preliminary objection are raised on the ground that management denies each and every statement / submission and contention set forth in the statement of claim to the extent that the same are contrary to and / or in consistent with the true and complete facts of the case and / or submission made on behalf of the management in the present written statement. Nothing in the written statement be deemed to have been admitted by the management save and accept what is expressly and specifically admitted and the contents of the written statement unless admitted specifically by the management may be read as travesty of fact. The workman has not approached this Court with clean hands and has suppressed the material facts in his statement of claim. There is no relationship of workman with the management. The workman has not attached any appointment letter in the claim statement. The statement of claim is grossly misconceived and misdirected for

which it should be dismissed. The statement of claim is highly time barred and hence, liable to be dismissed. The Chandigarh Co-operative Kitchen Gardening Society, opposite Bal Bhawan, Sector 23-A, Chandigarh is registered under the Co-operative Society Act, 1961 (as applicable to U.T.) (*here-in-after in short referred as 'Act 1961'*). The Co-operative Society was registered with the Co-operative Department, U.T. Chandigarh. Section 55(1) of the Act 1961 is reproduced hereunder :—

"55. Disputes which may be referred to arbitration :-

- (1) *Notwithstanding anything contained in any law for the time being in force, if any dispute touching the constitution, management or the business of a co-operative society arises-*
 - (a) *among members, past members and persons claiming through members, past members and deceased members; or*
 - (b) *between a member, past member or person claiming through a member, past member or deceased member and the society, its committee or any officer, agent or employee of the society or liquidator, past or present; or*
 - (c) *between the society or its committee and any past committee, any officer, agent or employee, or any past officer, past agent or past employee or the nominee, heirs or legal representatives of any deceased officer, deceased agent, or deceased employee of the society; or*
 - (d) *between the society and any other co-operative society, between a society and liquidator of another society or between the liquidator of one society and the liquidator of another society;*

Such dispute shall be referred to the Registrar for decision and no court shall have jurisdiction to entertain any suit or other proceeding in respect of such dispute."

No suit shall be instituted against the Co-operative Society or any of its officer in respect of any act touching the business of the Society until the expiration of three months. Section 79 of the Act, 1961 is reproduced as under :—

"79. Notice necessary in suits:- No suit shall be instituted against a co-operative society or any of its officers in respect of any act touching the business of the society until the expiration of three months next after notice in writing has been delivered to the Registrar or left at his office, stating the cause of action, the name, description and place of residence of the plaintiff and the relief which he claims, and the plaint, shall contain a statement that such notice has been so delivered or left."

Section 82 of the Act, 1961 as applicable to U.T. Chandigarh, the Civil Court / Revenue Court / Labour Court is barred to decide the present case. Section 82 of the Act, 1961 is reproduced as below:-

"82. Bar of jurisdiction of courts :-

- (1) *Save as provided in this Act, no civil or revenue court shall have any jurisdiction in respect of -*
 - (a) *the registration of a co-operative society or its bye-laws or of an amendment of a bye-law;*
 - (b) *the removal of a committee;*
 - (c) *any dispute required under section 55 to be referred to the Registrar; and*
 - (d) *any matter concerning the winding up and the dissolution of a co-operative society.*

- (2) *While a co-operative society is being wound up, no suit or other legal proceedings relating to the business of such society shall be proceeded with or instituted against, the liquidator as such or against the society or any member thereof, except by leave of the Registrar and subject to such terms as he may impose.*
- (3) *Save as provided in this Act, no order, decision or award made under this Act shall be questioned in any court on any ground whatsoever"*

In view of the above Sections the Civil Court is barred to entertain and decide the case law relating to Co-operative Society. Section 56(9) of Act, 1961 as applicable to Chandigarh is reproduced as below:-

"56(9) Jurisdiction of civil court:- such a dispute has clearly to be settled by recourse to arbitration under the act and the jurisdiction of the civil courts is, therefore, clearly barred."

No notice under Section 79 of the Act, 1961 has been issued to the management. On this ground alone the present case may be ordered to be dismissed. There is independent Court of Registrar Co-operative Society, U.T. Chandigarh and the workman should approach the Court of Registrar Co-operative Society, U.T. Chandigarh for his grievance, if any. No original paper has been attached with the evidence of the workman. Similar case titled Bidhi Singh Versus The Chandigarh Co-operative Kitchen Gardening Society Limited, Sector 23-A, Chandigarh was dismissed on 10.05.2019 on the ground that since there is an independent Court of Registrar Co-operative Society, U.T. Chandigarh and his case does not fall before the Industrial Tribunal-cum-Labour Court, U.T. Chandigarh and his case was dismissed by this Hon'ble Court on the territorial issue.

4. Further in parawise reply it is stated that there is no relationship of workmen with the management. The same is evident from the fact that the amount of wages column has been left blank. No appointment letter has been attached with the statement of claim. Further the statement of claim is hopelessly time barred and hence, deserves dismissal. Rest of the averments of claim statement are denied being false and frivolous and prayer is made that the claim filed by the workman being totally false, frivolous, misleading, not based on facts and not maintainable may be dismissed with heavy cost.

5. The workman filed rejoinder wherein the contents of written statement are denied as wrong and incorrect and averments of claim statement are reiterated. It is specifically pleaded that the Labour Court in this case is competent to adjudicate and decide the present dispute in view of the law laid down by Hon'ble Supreme Court in ***Civil Appeal No.197 of 2018 between Smt. K. A. Annamma Versus The Secretary, Cochin Co-operative Hospital Society Limited.***

6. From the pleadings of the parties following issues were framed vide order dated 23.09.2021:

1. Whether the services of the workman were terminated illegally by the management, if so, to what effect and to what relief he is entitled to, if any ? OPW
2. Whether this Court has no jurisdiction to entertain and try the present industrial dispute ? OPM
3. Whether there is no relationship of employer & employee between the parties ? OPM
4. Relief.

7. In evidence, workman Paras Ram examined himself as AW1 and tendered his affidavit Exhibit 'AW1/A'. The workman examined AW2 Dalvir Singh - Senior Social Security Assistant, O/o Employees' Provident Fund Commissioner, Sector 17, Chandigarh, who brought the summoned record pertaining to contribution details of subscriber ledger card as on 10.10.2022 bearing PF No.PB/CHD/00372620000000016 allotted member Paras Ram S/o Padam Singh from 01.04.2008 to 30.11.2017 and placed on record copies of the same vide Exhibit 'AW2/1'. On 24.01.2023 the workman closed his evidence in affirmative.

8. On the other hand, management examined MW1 Pritpal Singh - Manager, Chandigarh Co-operative Kitchen Gardening Society Limited, who tendered his affidavit Exhibit 'MW1/A'. During his cross-examination MW1 placed on record copy of appointment letter bearing No.SP-I dated 24.09.2020 issued to him as Exhibit 'MW1/1'.

9. The management examined MW2 Amarjit Singh - Treasurer, Chandigarh Co-operative Kitchen Gardening Society Limited, who tendered his affidavit Exhibit 'MW2/A' along with documents Exhibit 'M1' & Exhibit 'M2'.

Exhibit 'M1' is copy of report of complaint tracking system of Chandigarh police accompanied with complaint dated 05.12.2016 lodged by then Chowkidar Pardeep Johan to the Senior Superintendent of Police, Chandigarh.

Exhibit 'M2' is copy of report of complaint tracking system of Chandigarh police accompanied with complaint dated 13.11.2016 lodged by Amarjit Singh - Treasurer to the Senior Superintendent of Police, Chandigarh.

During cross-examination of MW2 Amarjit Singh the workman put document Exhibit 'W1' i.e. copy of posting order of workers dated 11.09.2012 issued by the Administrator, The Chandigarh Kitchen Gardening Society Ltd., Sector 23, Chandigarh.

10. On 20.07.2023 Learned Representative for the management closed the oral evidence. On 03.08.2023 Shri Pritpal Singh - Manager of The Chandigarh Co-operative Kitchen Gardening Society Limited closed the documentary evidence.

11. I have heard the arguments of Learned Representatives for the parties and perused the judicial file. My issue-wise findings are as below :—

Issue No. 2 :

12. Issue No.2 is taken up first as it goes to the root of the case. Onus to prove this issue is on the management.

13. Learned Representative for the management contended that in view of Section 55, 56(9) and 82 of the Act, 1961 the jurisdiction of the present Court is barred. To support his contention Learned Representative for management referred case law reported in **1978 Lab. I.C. 467** titled as **Bangalore Water Supply & Sewerage Board Versus A. Rajappa & Others** and argued that in view of the law laid down by the Hon'ble Supreme Court in the above referred case, the management of The Chandigarh Co-operative Kitchen Gardening Society Limited does not fall within the definition of an 'industry' as defined in Section 2(j) of the ID Act, therefore, the present Court has no jurisdiction to entertain and decide the present reference. Besides, the mandatory prior notice under Section 79 of the Punjab Co-operative Society Act has not been issued to the management.

14. On the other, Learned Representative for the workman contended that as per the latest law laid down by Hon'ble Supreme Court of India vide judgment dated 12.01.2018 in ***Civil Appeal No.197 of 2018 (Arising out of S.L.P.(C) No.29765 of 2016) titled as Smt. K. Annamma Versus The Secretary, Cochin Co-operative Hospital Society Limited***, the appropriate Authority under the Act, 1961 and the present Court under the ID Act both possess and enjoy the concurrent jurisdiction to decide any dispute arising between the co-operative society's employee and his / her employer i.e. co-operative society.

15. To my opinion, the previous judgment of Hon'ble Supreme Court reported in ***1978 Lab. I.C. 467 (supra)*** shall prevail over the judgment in ***Civil Appeal No.197 of 2018 (supra)*** because the previous view taken by the Hon'ble Supreme Court in ***1978 Lab. I.C. 467 (supra)*** is of the larger bench. As per the view of the larger bench of Hon'ble Supreme Court in ***1978 Lab. I.C. 467 (supra)***, since the management does not fall within the definition of 'industry', therefore, the present Court has no jurisdiction to try and decide the present industrial dispute.

16. Furthermore, the workman failed to controvert the fact that before presenting the present reference compliance of Section 79 of the Punjab Co-operative Society Act has not been made.

17. Accordingly, this issue is decided in favour of the management and against the workman.

Issue No.1 & 3 :

18. Both these issues are taken up together being interconnected and in order to avoid repetition of discussion. Onus to prove issue No.1 is the workman and onus to prove issue No.3 is on the management.

19. In view of the findings recorded on issue No.2 above, this Court has no jurisdiction and is not competent to adjudicate whether the services of the workman were terminated illegally by the management and if there is no relationship of employer & employee between the management and the workman.

20. In view of judgment of ***Hon'ble High Court of Punjab & Haryana passed in CWP No.18958 of 1996 titled as Ashok Khanna Versus M/s TTK Pharma Limited & Others, decided on 01.07.2009***, once this Tribunal / Court has reached to the conclusion that it does not have jurisdiction for the subject matter of the case then it should not decide any question on merits.

21. However, the workman is at liberty to avail the remedy before the appropriate forum under relevant provisions of law.

22. Both these issues stands decided accordingly.

Relief :

23. In the view of foregoing finding on the issue No.2 above, this industrial dispute is declined with liberty to the workman to avail the remedy before the appropriate forum under relevant provisions of law. Appropriate Government be informed. File be consigned to the record room.

(Sd.) . . . ,

(JAGDEEP KAUR VIRK)
PRESIDING OFFICER,
Industrial Tribunal & Labour Court,
Union Territory, Chandigarh.
UID No. PB0152.

Dated : 03.08.2023.

CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT**Notification**

The 25th October 2023

No. 13/2/34-HII(2)-2023/15727.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL) dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 8/2020 dated 07.08.2023 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

CHINTA DEVI W/O SH.OM PARKASH, R/O #2493, SECTOR 27-C, CHANDIGARH (Workman)

AND

BHARTIYA VIDYA BHAWAN, JAISUKHLAL HATHI SADAN SECTOR 27-B,
CHANDIGARH THROUGH ITS CHAIRMAN SECRETARY & PRINCIPAL (Management)**AWARD:-**

1. Chinta Devi, workman has presented industrial dispute under Section 2-A(2) of the Industrial Disputes Act, 1947 (*here-in-after in short called 'ID Act'*).

2. Briefly stated the averments of claim statement are that the workman was appointed by the management w.e.f. 01.07.1997 as *Aya* (Maid) but her services were confirmed after 3 years from the actual date of appointment vide order No.BV/Sports/2K-2K1/116 dated 13.11.2000 at monthly wages of ₹1,000/-. Since appointment, she had continuously worked right up to 31.03.2018 and had performed her duties to the best of her abilities. Last drawn wages of the workman were ₹ 7,000/- per month. The workman successfully performed her allotted duties as per the instructions of the management. She is punctual and honest towards her duties. There was no single complaint towards her job and conduct. The management was entirely satisfied with her work & conduct. She was working under direct control and supervision of management. The school of the management is affiliated with CBSE so the school management is legally bound to comply with the Affiliation Bye Laws amended up to date. The management had not issued any leave card, wages slips and attendance card to the workwoman. She was allowed only 8 days sanctioned leaves with wages. One Ms. Geeta staff member of management used to take personal work from the workman like buying vegetable for her house, repair of her sandals from market etc. When the workman raised her voice against the said humiliation then the staff of management hatched conspiracy to remove the workman and they started moving complaints by leveling false allegations against the workman. With bad intention the management paid wages for half day despite full day work on each working day during the whole service period. The management has never been used transparency in maintaining the record of workman. The workman is not educated enough to know the technicalities of the Labour Law. She can work only and it is beyond her capacity to maintain her service record. On 01.04.2018 the management terminated the services of the workman vide termination order without following the mandatory provision of ID Act. When the workman approached the concerned authorities of the management, the workman was abused and the authorities used foul language without giving proper reason of the termination of her service. The termination of services of the workman is *malafide* and in violation of principles of natural justice. The workman is totally unemployed since termination of her services. The workman has right to recover wages for remaining 4 hours of service period. The management intentionally prepared defective record of the workman. The management has not issued any memo, charge sheet or conducted any enquiry in any matter before illegal termination. The workman requested several times to concerned officer to take her back on duty verbally or in writing but the management did not hear her genuine requests. The management has not paid or offered notice pay in lieu of notice or compensation to the workman. The job of workman exists as it is till date and the junior to the workman are still retained in service by the management. Therefore, there is violation of Section 25-F, 25-G, 25-H and other provisions of the ID Act. The

refusal to work is illegal by all means. Action of the management is based on the policy of 'Hire & Fire' and is colorable exercise of power. Termination of services of the workman has badly disturbed the workman and her family. The workman has no other source of income. The workman submitted demand notice to the school management through registered post. In spite of that the management did not give any response to the workman. Then on 05.10.2018 the workman raised demand notice before the Conciliation Officer U.T. Chandigarh. The conciliation proceedings failed. Hence, the present claim before this Court for adjudication. Prayer is made that termination order may be declared illegal and the workman may be reinstated into service with continuity of services, along with full back wages with interest @ 18% and other consequential benefits.

3. On notice, the management appeared through its authorized representative and contested the claim of the workman by filing written statement on 22.04.2021, wherein preliminary objections are raised on the ground that the schools under Bhartiya Vidya Bhavan were started in the 1938 for not only to impart knowledge or prepare students for examination but also to help the students to develop all around personality. The aim is to make students self-reliant and to enable them to face the challenges of life successfully. One of the most important objectives is to impart value education to students and to make them aware and feel proud of glorious cultural heritage, values and traditions. Bhavan Chandigarh has consistently pursued its goal of being a centre of excellence in the realm of academics and is in one of the top schools in Chandigarh. At the very outset itself, it is humbly submitted that save and except what has been expressly admitted or concluded hereunder, all averments and allegations made in the statement of claim are wrong, denied and disputed and no averment or part thereof may be construed as admitted or conceded directly or indirectly. Further, the objections and averments made in the present reply are without prejudice to one another. The present statement of claim is not maintainable since it has been filed against the law and facts. The applicant has neither *locus-standi* nor cause of action. Further, the statement of claim is liable to be dismissed as the applicant has deliberately concealed material facts from this Hon'ble Court. The respondent school had appointed the applicant as a part-time *Aya* (Maid) purely on temporary basis in Bhavan Vidyalaya, Sector 27 Chandigarh on 13.11.2000 vide Management Order No. BV/Sports/2K-2K1/116 at a fixed salary of ₹ 1,000/-per month. It is clearly evident from the appointment letter that the appointment could be terminated without any notice. The applicant was a part time *Aya* with the respondent school. Since her employment was no longer required due to her unsatisfactory performance, her employment was terminated as a simplicitor termination and is non-stigmatic. The respondent no longer requires the services of the applicant and her service is terminated as under Section 2(o)(bb) of the ID Act. Hence, Section 25-F, 25-G & 25-H of the ID Act do not apply as the removal of the applicant is not retrenchment as can be seen from the language and wordings of the termination letter. The respondent school has a Special Cell for the differently abled students with severe learning difficulties, physical disabilities or behavioural problems. The Cell is specially made for the students with disabilities because these students need extra treatment, care, caters and special education due to their special status. The respondent school received a number of complaints by the parents of the Special Students against the applicant to the effect that the applicant / caretaker was not taking care of the children in a proper way and their children are complaining of being harassed, scolded and physically assaulted by the applicant. The parents of the Special Children have been threatening to take civil and criminal action against the school, its Principal, Teachers, management and other staff members due to illegal and unwarranted actions of the applicant. It is the duty and responsibility of the school towards the Special Students who are studying and in custody of the school for longer part of the day. The respondent school also received a complaint dated 02.12.2017 by the teachers of the Special Cell against the applicant wherein it stated that the caretaker was not following the directions of the teachers. The respondent school after knowing about the complaint apprised the applicant of the complaint received against her and advised to improve her behavior and conduct towards the special children. A warning letter dated 04.12.2017 was also issued in this regard by which she was warned of serious disciplinary actions. The respondent school on 06.12.2017 received another complaint dated 06.12.2017 against the applicant by an anonymous student of Bhavan Vidyalaya who had seen the applicant behaving offensively and imposing corporal punishment to small children of the Special Cell. The teachers of the special cell also filed a complaint against the applicant mentioning therein that the applicant never improves her behavior and did not make any efforts to work properly and manage the students of the special cell during the athletic meet in the school. The teachers also requested to replace the applicant due to her inability in managing the special children. In spite of the fact

that the administration is not under any obligation to provide her prior notice for removing her, the management warned her for in-disciplined activities and misconduct verbally and also through a warning letter. The respondents were receiving serious complaints against the applicant on a regular basis and when there was no change in the applicant in performing her duties in a disciplined manner, the administration took the decision to remove the applicant as a part time/ temporary caretaker (*Aya*) from the respondent school. The management of the school is a reputed school under the responsibilities in taking care and welfare of the students within the campus that too with higher degree of responsibilities towards the Special Children who are studying there. The series of acts by the applicant were not only unethical, unprofessional and unacceptable but also made the management vulnerable to criminal and civil prosecution by putting the safety and well being of children at jeopardy. The claim deserves to be dismissed with exemplary costs in view of gross misstatement of material facts by the applicant with deliberate *malafide* intentions.

4. Further in para-wise reply, it is denied that the applicant was a regular employee of respondent school. The applicant was working on a purely temporary basis as a part time *Aya* in the special cell of the respondent school, as is evident from the appointment letter dated 13.11.2000, at wages ₹ 1,000/- pm. It is also denied that her last drawn salary was ₹ 7,000/- per month. The applicant has never lived up to the expected conduct and professional standards of the school as well as had failed to take requisite care of the special children. The applicant had all the holidays and leaves as per the calendar of the school. The applicant does not disclose any specific instances where leave was denied to the applicant. This is clear after thought. It is specifically denied that the respondent school has not issued her leave card, wages slip and attendance record to the applicant. The provisions of Section 25-B of the ID Act are not applicable as the applicant was not regular and was appointed on purely temporary basis as part time *Aya* for the special cell of the school. No staff member of management has ever asked her to do any personal work. The applicant has misstated that the management staff had hatched conspiracy to remove the applicant from the school. The removal of the applicant is the decision of the management which took place due to her inappropriate conduct. Her allegations towards the staff of management are only misleading and hence have no relevance with the complaint. The respondent has not received any complaints from the applicant regarding Ms. Geeta or any other members of the staff. The applicant is called upon to produce strict proof thereof. The applicant was appointed as part time *Aya* on purely temporary basis and hence her duty hours were fixed to half day and the applicant was being paid for her part time services. The school management has fully maintained the record of the applicant's services and will produce whenever it will be required. The applicant was not interested in doing her duties and never made efforts to comply with the instructions to improve her conduct in the school while performing her duties. The applicant was served with a number of warning letters under the provisions of ID Act and also informed verbally on various occasions regarding her inappropriate behavior and conduct towards the special children studying in the school. The principles of natural justice were followed by the respondents as the applicant was given various opportunities and reminders regarding improvement of her conduct. Even though the applicant time and again committed the same offence and the management was receiving various complaints from the parents of the special children, teachers and staff of the school. The management has given various memos to the applicant regarding her conduct. She was also issued warning letters on various occasions. The applicant never made efforts to improve her conduct in spite of various warning letters. The management has cleared all dues payable to the applicant, as mentioned in her termination letter. The applicant is no longer an employee of the management after her termination from the services on 01.04.2018. The termination letter clearly mentioned that the accounts department was instructed to pay her the dues in full and final settlement of her accounts. The applicant has received her full and final payment from the school management as is evident from the termination letter dated 27.02.2018 where the applicant has signed after receiving complete dues from the respondent. The applicant never approached this Hon'ble Court with clean hands. The management had sufficient reasons to remove the applicant and the school also on regular intervals had warned her with both oral as well written warnings. The management has never concealed any facts from the Government Department for any wrong reasons. It is specifically denied that respondent school did not respond to the demand notice. The conciliation proceedings failed as both the parties remained firm on their respective stands and this fact was clearly stated in the order dated 26.09.2019, of the Assistant Labour Commissioner-cum-Conciliation Officer, Sector 30, Chandigarh. The termination of the applicant is not verbal

but one month's prior notice-cum-termination order and office order was issued to her on 27.02.2018 and 23.03.2018 respectively. The school has given the applicant opportunity to be heard and has followed the principle of natural justice. Hence, the claim of the applicant for reinstatement with full back wages and continuity in services are not maintainable and she does not deserve any relief as per settled Law. Averments made in preliminary objections were reiterated and remaining averments of the claim are denied. Prayer is made that claim statement may be dismissed with exemplary cost.

5. The workman filed replication, wherein the contents of written statement are denied as wrong except the admitted facts of the claim and the averments of the statement of claim are reiterated.

6. From the pleadings of the parties, following issues were framed vide order dated 20.09.2021 :—

1. Whether the services of the workman were terminated illegally by the management, if so, to what effect and to what relief she is entitled to, if any ? OPW

2. Relief.

7. On 25.03.2022 the workman examined herself as AW1 and tendered into evidence his affidavit Exhibit 'AW1/A' and the case was fixed for recording cross-examination of AW1. Thereafter, the parties affected compromise. On 20.07.2023, the workman got recorded her statement, which is reproduced as below :—

"Stated that I have settled my dispute with the management vide agreement-cum-final settlement dated 17.07.2023 and have received cheque No.981393 dated 20.07.2023 for ₹ 2,50,000/- drawn on HDFC Bank, Sector 8-C, Chandigarh from the management towards full & final settlement of my claim whatsoever against the management including right of reinstatement. Copy of agreement-cum-final settlement and cheque is Mark 'A' and Mark 'B' respectively. I do not want to pursue my present industrial dispute being settled. The same may kindly be disposed of accordingly."

8. The statement of the workman is countersigned by her Representative. Heard. In view of aforesaid statement of the workman, the present industrial dispute is disposed off as settled by way of compromise. Appropriate Government be informed. File be consigned to the record room.

(Sd.) . . . ,

Dated : 07.08.2023.

(JAGDEEP KAUR VIRK)
PRESIDING OFFICER,
Industrial Tribunal & Labour Court,
Union Territory, Chandigarh.
UID No. PB0152.

Secretary Labour,
Chandigarh Administration.

"No legal responsibility is accepted for the contents of publication of advertisements/public notices in this part of the Chandigarh Administration Gazette. Persons notifying the advertisements/public notices will remain solely responsible for the legal consequences and also for any other misrepresentation etc."